Absentee Members.

Mr. A. Sankara Puduval.—Sir, a point of order, regarding your ruling with regard to the absentee members whose names are being published. May I bring to the notice of the House that the Hon'ble Member for Narakkal has denied his presence here. Under Rule 22 of the Electoral Rules, " If, for a period of 4 consecutive months, any such Member is unable to attend to the duties of his Membership, the Government may, by notification in the Gazette, declare that the seat in Council of that Member has become vacant". The Member for Narakkal has been known to us only by the number of innumerable questions he is putting, and he has not been attending here for more than double the above period.

President.—But he is attending to the duties of the Council by asking questions.

Mr. A. Sankara Puduval.—Will the Government be pleased to go into this fact? He ceases to be a Member according to Rule 22, page 20 of the Electoral Rules.

Mr. V. K. Aravindaksha Menon.—That section can be applied only, if the person is unable to attend.

President.—Now, the question to be considered is whether a Member can continue as such by sending questions without attending the Council.

Mr. A. Sankara Puduval.—I am not aware of the circumstances under which the Member is unable to attend. I only wish to draw the attention of the Government to the Rule about the question of the Member's continuing as a Member of this Council.

President.—This was brought to my notice once before.

Mr. T. K. Krishna Menon.—In Travancore, only if a Member absents himself for a period of two consecutive *sessions*, he will cease to be such. But here the period stipulated is four consecutive *months*. That is the difficulty. But it is a matter which the constituency can consider the absence of the Member and whether be could be considered to be performing the duties of the Council, as long as he sends questions and resolutions. This is also within the wording of our Rule.

Mr. K. T. Mathew.—Sir, the Rules and the Regulation are unhappily worded.

Mr. A. Sankara Puduval.—I shall bring up this matter in the shape of a resolution.

Motion under S. O. 19 (1).

President.—Mr. Nunez, I have considered your letter presented to me yesterday. When I asked you for what purpose

LIBRARY ARCHIVES Kerala Legislative Assembly

you are making this request, you drew my attention to S. O. 19 (1). Of course, I had no time to consider it then. I said I would look into the matter: "A matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a Member". It means only that the sense of the Council should be ascertained by putting questions on the motion.

Mr. S. F. Nunez.—I do not interpret it in that way. It is left to the discretion of the President.

President.—You have a right to make a motion. I do not want to deprive you of that right. It is a matter of regulation. The motion is brought forward in the manner of a question. According to the Legislative Council Rules, Members are allowed to make motions. When motions are moved, the sense of the Council should be obtained by putting the question. This is the procedure we are adopting in the transaction of our daily business. I thought it to be a Matter relating to procedure. Members are entitled to make motions. The Standing Orders deal with such motions in a particular manner. When a motion has been discussed, it must be put to the vote of the Council by means of a question. I always say in putting a certain motion to the vote "The question before the House is, etc....". So it relates more to a matter of procedure than to any substantive right conferred upon a Member. Motions are brought forward with regard to legislation and resolution. I have to consider this very carefully, because this is the first time that this case is brought to my notice.

Mr. S. F. Nunez.—There is some difficulty. I want some more time to consider it.

Mr. A. B. Salem.—I think it is a substantive right. Kindly refer to S. O. 19 (2). There it is said "Save as otherwise provided for in the Rules or Standing Orders, a Member who wishes to move a motion shall give notice of his intention to the Secretary 6 clear days before the meeting at which he intends to move the motion, provided that the President may, in his discretion, admit at any time any motion at shorter notice than that prescribed by any order or may admit a motion without notice". We have got several things such as motion, resolution, etc. A motion is defined in Standing Order 2. A motion means a proposal made by a Member for the consideration of the Council relating to any matter which may be discussed by the Council, and includes an amendment. A resolution means a motion for the purpose of discussing matters of general public interest. So any proposal made by a Member for the consideration of the Council becomes a motion in itself. How can

LIBRARY ARCHIVES Kerala Legislative Assembly

those motions be moved? A resolution requires 15 days' notice, a question, 12 days', and a motion, 6 days'. This may be modified according to the discretion of the President. There is a substantive right of the Members to make a motion. A motion is a substantive move for bringing in a resolution. The rights conferred by a motion and a resolution are different substantive rights. In the case of motions the Government must be given 15 days' clear notice, and in the other case, of resolutions 6 days', which may or may not be insisted upon, according to the discretion of the President. So I submit that the motion under S. O. 19 (2) is a substantive right of the Council.

Mr. K. Achyuta Menon.—If you are not inclined to use your discretion, it is open to you, Sir, not to insist on any day's notice at all. But a motion may deal with any of the matters that can be discussed by the Council. Any matter that may be discussed in the Council may be brought forward by means of a motion.

President.—Matters which ought to be discussed are specifically defined in the Rules and the Regulation.

Mr. K. Achyuta Menon.—There are certain matters which could not be discussed in the Council.

President.—The nature of the discretion is to put questions. We have to follow a particular procedure. We put questions in order to elicit information from the Government, and propose resolutions to bring any matter to the notice of the Government. We also bring in Bills, when we want legislation, and bring adjournments for a particular matter of urgent public importance. These are the kinds of motions provided for. I ask whether a motion of certain procedure can have its own rules other than those already provided for in the Rules and the Regulation.

Mr. K. Achyuta Menon.—Certain matters are excluded from the discussion of the Council.

President.—So, when a Member is sending a resolution, he can raise a motion? Is that your point?

Mr. K. Achyuta Menon.—The Members must give notice before 6 days.

President.—What is wanted is that a motion should be made by a resolution.

Mr. K. Achyuta Menon.—A resolution is only a recommendation to the Government.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—I think that a motion is provided for as an additional right in the Council Rules and Regulation issued by the Government and in the Standing Orders. The Standing Orders are intended only to specify, rather to illustrate and also to amplify, the procedure

LIBRARY ARCHIVES Kerala Legislative Assembly

laid down in the Rules, and Regulation, and I do not know whether they confer any additional right.

President.—Standing Orders are simply to regulate the procedure. There are certain rights conferred by the Regulation. Rules also may be considered as equal to the Regulation, because Rules are made under the provisions of the Regulation. So the Rules and the Regulation can be treated similarly. Anyhow, to carry out these Rules is simply a matter of procedure.

Mr. K. Achyuta Menon.—I am of opinion that the Standing Order 19 (2) does not confer any substantive right.

Mr. A. B. Salem.—The object of the Regulation is to discuss any matter of importance. The function of the Council is that.

President.—Which is the section of the Regulation?

Mr. A. B. Salem.—Section 11. It says the matters that are mentioned in section 11 are excluded from the consideration or enactment of the Council. So every matter that does not come within the walls of that section and which is of importance to the public can be discussed here.

President.—Yes.

Mr. A. B. Salem.—The right as to what all matters can be discussed here is not stated there. What all matters cannot be discussed are given. If these things do not find a place in these Rules, they can be discussed by means of motions, resolutions, Bills, etc.

Mr. K. T. Mathew.—We had a similar motion in connection with the demise of Queen Alexandra.

Mr. A. B. Salem.—Then, how was it moved, if it was not provided for in the Rules.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—It was moved under section 17 of the Regulation. A regular resolution was brought and accepted unanimously.

Mr. C. Achyuta Menon.—It was not in the form of a recommendation and not made by the non-official Members.

Mr. A. B. Salem.—Where is it stated that an official Member can move a resolution without its going to the ballot box? They have not the right to move any resolutions. They have only to defend their action.

President.—You must consider the question before you make such statements. It is not a resolution but a recommendation to the Government.

Mr. K. T. Mathew.—The wording of the motion was "This Council desires to express its due respect.....Royal family." It is no recommendation to the Government; it is not

LIBRARY ARCHIVES Kerala Legislative Assembly

a resolution. But it is a motion, and such motions are allowed in other Councils.

President.—We pointed out that this present question does not arise for consideration, and no body raised any objection; and it was allowed. Now, a question has come up for consideration. If we had applied our mind and decided it then and there, you could have relied upon it as a precedent.

Mr. A. B. Salem.—Official Members have no right to move a resolution. I shall show the force of my argument. Here the House consists of elected representatives, nominated people, Government officials and the Diwan. We discuss matters. You have been good enough to say that each officer has certain functions delegated to him. Now, the resolution is a recommendation made to the Government. Can the Government recommend anything to themselves? Can I recommend anything to myself, if I want a certain thing to be done? If the Government wants to do a certain thing, they can do it for themselves.

President.—The thing is this. We have to consider another point. The Government, under special circumstances, might think it proper to obtain the sense of the Council, so that, with the concurrence of the Council, it becomes easy to support any of the resolutions brought forward by the official Members, and if the non-official Members take a different view, the Government will hesitate to give effect to it. The Government want to have all the benefits by taking the views of the Council. How are they to be obtained? It is only by means of bringing in a resolution.

Mr. A. B. Salem.—Any matter which requires the decision of the Council may at once be brought here by a motion, if you want to have the sense of the Council.

President.—I am inclined to think that the official Members can move resolutions, because I have seen instances in which official Members in the Madras Legislative Council have brought forward resolutions.

Dr. A. G. Menon.—It should go to the ballot box.

Mr. K. T. Mathew.—It need not be ballotted.

Mr. A. B. Salem.—I do not know where it is so stated. Where is the rule that says that the resolutions brought forward by the Government Members need not go to the ballot box? It was never contemplated that the official Members should bring in resolutions. It is not the Government but the Council that recommends.

President.—The Government wanted to know the sense of the Council on the Currency Commission Report submitted to the Legislative Assembly. In the Assembly they wanted

LIBRARY ARCHIVES Kerala Legislative Assembly

some Members to move for the consideration of the measure. They wanted to know the sense of the House.

Mr. K. T. Mathew.—Any Member can move a resolution, Government Members included.

Mr. S. F. Nunez.—I do not press the motion.

The Code of Cochin Criminal Procedure.

President.—We come to the next item of business. Some Government Bills have to be taken up and passed, and we have resolved to take them on the meeting of Friday.

Mr. C. A. Kunjunni Raja.—We shall come to the Government Bills after the Usurious Loans Bill that is given in the programme.

President.—It is only formal business.

Dr. A. R. Menon.—A point of order, Sir. The Law Member can move the Government Bills only after the two more items in the programme are gone through.

President.—Have I not got power?

Dr. A. R. Menon.—I only want to draw the attention of the Government to this.

Mr. N. Padmanabha Menon.—The other business is also formal, according to the convention that you have established in the House.

President.—No doubt these will also have to be considered.

Dr. A. R. Menon.—Nothing need be considered in this House for which leave to introduce has been given. Here everything has been thrashed. Everything is in the other way.

Mr. K. Achyuta Menon.—Sir, I beg to move that the Bill to amend the Code of Cochin Criminal Procedure may be taken up and passed.

Mr. T. K. Krishna Menon.—Sir, I second it.

It was put to the votes and carried.

The Bill to amend the Cochin Municipal Regulation.

Mr. K. Achyuta Menon.—Sir, I beg to move that the Bill to amend the Cochin Municipal Regulation be taken up and passed.

Mr. T. K. Krishna Menon.—Sir, I second it.

The Bill was passed.

Mr. K. T. Mathew's Amendments to Standing Orders 65 and 66.

Mr. K. T. Mathew.—Sir, I beg to move that the motions to amend Standing Orders 65 and 66 be taken up and passed.

Mr. C. A. Kunjunni Raja.—Sir, I second it.

LIBRARY ARCHIVES Kerala Legislative Assembly